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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/506,745 | 04/19/2005 | Stephen Norman Batchelor | 030344PCTUS | 7064 |

26285 7590 02/07/2008

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

| EXAMINER | |
|---|---|
| DELCOTTO, GREGORY R | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1796 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/07/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/506,745 | BATCHELOR ET AL. | |
| | Examiner | Art Unit | |
| | Gregory R. Del Cotto | 1796 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *07 November 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) *10 and 11* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/1/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1. Claims 1-11 are pending. The preliminary amendment filed 9/3/04 has been entered.

Applicant's election of Group I, claims 1-9 in the reply filed on 11/7/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 10 and 11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/7/07.

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Specification*

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required. While the cover page of the corresponding WO publication has been filed as the Abstract, this is not sufficient.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Collins et al (US 5,853,428).

Collins et al teach a bleaching composition containing an oxidatively stable bleach activator which is the same as the macrocyclic amido N-donor ligand as recited by the instant claims and an effective amount of a source of an oxidant. See column 3, line 35 to column 4, line 40. The macrocyclic tetraamido ligands can be combined with an oxidant bleach or detergent base, said base comprising builders, and optionally, a surfactant selected from the group consisting of anionic, nonionic, cationic, amphoteric, zwitterionic surfactants, etc. The compounds can also be presented in a liquid base for a hard surface, stain remover, or other surface cleaning/bleaching execution. These compounds may also be useful for pulp and textile bleaching processing. See column 10, lines 25-40.

Surfactants will generally be added for removal of particular targeted soils, etc. Suitable anionic surfactants include linear and branched alkyl benzene sulfonates, etc. See column 11, lines 1-35. Surfactants may be used in amounts from 1 to 50% by weight of the composition. See column 12, lines 1-15. Note that, the Examiner asserts that the compositions as specifically taught by Collins et al would inherently contain an alkyl benzene sulfonate surfactant in an amount sufficient to provide a concentration in a wash liquor of at least 0.05 g/l as recited by instant claim 2 because Collins et al teach that anionic surfactants such as alkyl benzene sulfonate may be used in amounts as much as 50% by weight which would fall within the range of at least 0.05 g/l in a wash

liquor as recited by instant claim 2. Furthermore, Collins et al teach that an adjunct ingredient which is quinine or anthraquinone may be used in the composition which is the same as the "quinones" as recited by instant claim 7. Additionally, the Examiner asserts that quinone or anthraquinone as taught by Collins et al would inherently have the same log P value as recited by instant claim 9 because quinone, for example, is one of the preferred radical initiators as listed in instant claim 7 and on page 12 of the instant specification. Collins et al disclose the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of Collins et al anticipate the material limitations of the instant claims.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins et al (US 6,099,586) in view of WO01/07549.

Collins et al teach a bleaching composition containing an oxidatively stable bleach activator having the same general formula as recited by the instant claims and an effective amount of a source of peroxy compound. Surfactants, fillers, builders, etc., and other standard cleaning and/or laundering adjuncts may be added. See column 2, lines 20-65. These transition metal complexes of macrycyclic tetraamide ligands (i.e. bleach activator) act as catalysts for enhancing oxidative bleaching reactions, provide improved dye transfer, provide improved anti-soil redeposition properties, and provide unique stain removal performance. See column 1, lines 10-25 and column 3, lines 25-45. Suitable anionic surfactants include linear and branched alkyl benzene sulfonates, etc. See column 9, lines 1-35. Surfactants may be used in amounts from 1 to 50% by weight of the composition. See column 10, lines 1-25. Note that, the Examiner asserts

that Collins et al would suggest compositions containing an alkyl benzene sulfonate surfactant in an amount sufficient to provide a concentration in a wash liquor of at least 0.05 g/l as recited by instant claim 2. The composition is used in a method of bleaching/cleaning fabrics. See claim 9.

Collins et al do not teach the use of a radical initiator or a composition containing a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal, a radical initiator, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

'549 teaches a fabric care system comprising a radical photoinitiator selected from hydrogen abstraction photoinitiators, bond cleavage radical photoinitiators, or mixtures thereof is used to treat fabric, for example as a stain removal system in the washing or rinsing of fabric in a laundry process. the fabric treatment system can be incorporated into a fabric washing composition or a conditioner composition. See Abstract. Suitable photoinitiators include alpha amino ketones, alphahydroxyketones, etc. The radical photoinitiators have several advantages such as they are stable in solution if kept in the dark, they will act on stains without the need for agitation and can be used in simple application methods, they are found to be soluble or dispersible in other media then water, have a bactericidal effect, and have a particularly beneficial balance of stain removal versus dye attack tendency. See page 3, line 5 to page 8, line 10.

Fabric wash compositions can be in any form including powders, liquids, etc., and my contain a anionic, nonionic, amphoteric surfactant, etc. See page 8, lines 10-30. Suitable anionic surfactants include alkyl benzene sulphonate, etc. See page 9,

lines 1-10. Anionic surfactant is suitable present at a level of from 5% by weight to 50% by weight. See page 10, lines 1-10. Note that, the Examiner asserts that '549 would suggest compositions containing an alkyl benzene sulfonate surfactant in an amount sufficient to provide a concentration in a wash liquor of at least 0.05 g/l as recited by instant claim 2. The detergent compositions may also suitably contain a peroxy bleach system capable of yielding hydrogen peroxide in aqueous solution. See page 13, lines 1-20.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a radical initiator such as an alpha amino ketone in the composition taught by Collins et al, with a reasonable expectation of success, because '549 teaches that the use of a radical initiator such as an alpha amino ketone in a similar composition provides numerous advantageous properties as noted above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal, a radical initiator, and the other requisite components of the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teaching of Collins et al in combination '549 suggest a composition containing a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal, a radical initiator, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO01/07549 in view of Collins et al (US 6,099,586).

'549 is relied upon as set forth above. However, '549 do not teach the use of a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal or a composition containing a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal, a radical initiator, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Collins et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal in the composition taught by '549, with a reasonable expectation of success, because Collins et al teach that the use of a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal in a similar peroxygen-containing composition acts as a catalyst for enhancing oxidative bleaching reactions, provides improved dye transfer, provides improved anti-soil redeposition properties, and provides unique stain removal performance and further, '549 teaches the use of peroxy bleaches in general which desirably would be activated by such transition metal complex to provide enhanced bleaching amongst other properties.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal, a radical initiator, and the other requisite components of the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect

to other disclosed components, because the broad teaching of '549 in combination with Collins et al suggest a composition containing a macrocyclic (tetra) amido N-donor ligand which forms a complex with a transition metal, a radical initiator, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.

Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571)

272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gregory R. Del Cotto
Primary Examiner
Art Unit 1796

GRD
February 2, 2008